

Green, LindaE

From: Pettiford, Isabelle
Sent: Tuesday, August 01, 2017 3:16 PM
To: FOIA HQ
Cc: Newman, Maya; Seaton, Tom
Subject: FW: Refugio letter
Attachments: USEPA Refugio Crim Discovery Ltr (000000002).pdf

Hello, The attachment letter should be logged into FOIA online assigned to OCEFT, Thanks

Isabelle L. Pettiford

FOIA Coordinator
Office of Criminal Enforcement, Forensics and Training
Legal Counsel Division
202-564-7396 Office

From: Seaton, Tom
Sent: Tuesday, August 01, 2017 2:58 PM
To: Pettiford, Isabelle <Pettiford.Isabelle@epa.gov>
Subject: FW: Refugio letter

Hi Isabelle,

This needs to be turned into a FOIA -- thanks

Tom Seaton, Deputy Director
Legal Counsel Division (2232-A)
Office of Criminal Enforcement, Forensics and Training
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., Washington D.C. 20460

Office: (202) 564-2544
Cell: (202) 373-4923
Fax: (202) 501-0579

From: Shine, Katherine
Sent: Thursday, July 13, 2017 4:28 PM
To: Parkinson, Nancy <Parkinson.Nancy@epa.gov>; Seaton, Tom <Seaton.Tom@epa.gov>
Subject: FW: Refugio letter

Hi Nancy and Tom, I have attached a letter from a state prosecutor asking for CID documents as well as information on the CID testimony/experts from a parallel federal investigation. While this did not come in as a subpoena, I believe that the most direct response to this would be to treat it as a Touhy request rather than covert it to a FOIA. Time wise the state prosecution is ahead of the federal, and involves different charges. Four other federal agencies have received similar letters; at least one, the Coast Guard, has also treated it as a Touhy request. This matter is also a parallel proceeding, though as we read the letter (as the civil DOJ attorney), they are only asking for CID files.

Please call when you are both back in the office so we can talk about it further (I left a vm for you Nancy). Thanks so much!

Katherine Shine
Senior Regional Criminal Enforcement Counsel
U.S. EPA Region IX (ORC-1)
75 Hawthorne Street
San Francisco, CA 94105

(415) 972-3910 (phone)
Shine.katherine@epa.gov

XAVIER BECERRA
Attorney General

State of California
DEPARTMENT OF JUSTICE



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June 27, 2017

J. Andrew Helmlinger
Attorney-Advisor
Office of Regional Counsel
U.S. EPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105

RE: People v. Plains All American Pipeline, L.P., Buchanan
Santa Barbara County Superior Court of California Case No. 1495091

Dear Mr. Helmlinger:

I write to request the review of any documents or evidence that the United States Environmental Protection Agency ("EPA") may have created as part of the criminal investigation of state charges against Plains All American Pipeline, L.P. for the oil release that occurred in Santa Barbara County in May of 2015. Thank you for providing the People of the State of California (the "People" or "Prosecutors") with any public documents that EPA has shared to date regarding the above-referenced case. To be clear, simply because the People requested or will request documents from EPA does not mean that the People believe that the EPA is part of the criminal charges "investigation team" in this state case. In fact, the People and EPA have considered their investigations to be separate and not shared exercises of jurisdiction.

Pursuant to California Penal Code section 1054 *et seq.*, the People have a continuing obligation to:

disclose to the defendant or his or her attorney the following materials and information, if it is in the possession of the prosecuting attorney or if the prosecuting attorney knows it to be in the possession of the investigating agencies:

- a. The names and addresses of persons the prosecutor intends to call as witnesses at trial;
- b. Statements of all defendants.
- c. All relevant real evidence seized or obtained as part of the investigation of the offenses charged.
- d. The existence of a felony conviction of any material witnesses whose credibility is likely to be critical to the outcome of the trial.

J. Andrew Helmlinger
US EPA, Reg IX
June 27, 2017
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e. Any exculpatory evidence.

f. Relevant written or recorded statements of witnesses or reports of the statements of witnesses whom the prosecutor intends to call at the trial, including any reports or statements of experts made in conjunction with the case, including the results of physical or mental examinations, scientific tests, experiments, or comparisons which the prosecutor intends to offer in evidence at the trial.

Cal. Pen. Code, § 1054.1.

If any of the above-referenced information or materials are in your possession that EPA has not yet provided to the People, the People request that EPA disclose and provide such information and materials to the People. Further, the People make a specific request for the following documents from EPA:

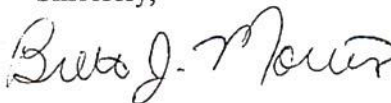
All reports or statements of experts and other officials from EPA.

Such experts or officials include individuals who collected, processed and/or analyzed evidence, participated in cleanups, interviewed potential witnesses, offered opinions on the cause of the release, animal fatalities, and standard practices within the integrity management field.

Such reports include all draft or final reports, any statements, formal or informal, made by any witness or expert associated with EPA.

The People request EPA either produce to the People or make available to the People for examination, inspection and copying any of the above-referenced information and materials within fifteen days of the date of delivery of this letter. The People ask that this request be treated as a continuing request through completion of trial. (See Cal. Pen. Code, § 1054.7.)

Sincerely,



BRETT J. MORRIS
Deputy Attorney General

For XAVIER BECERRA
Attorney General

XAVIER BECERRA
Attorney General

State of California
DEPARTMENT OF JUSTICE



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June 27, 2017

J. Andrew Helmlinger
Attorney-Advisor
Office of Regional Counsel
U.S. EPA, Region IX
75 Hawthorne Street
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- e. Any exculpatory evidence.
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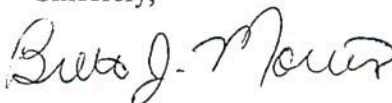
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BRETT J. MORRIS
Deputy Attorney General

For XAVIER BECERRA
Attorney General